All Saints Schools Trust

# FREEDOM OF INFORMATION POLICY

**Approved by Trust Board: Spring 2019**

**Review Date: Spring 2022**

**FREEDOM OF INFORMATION**

**1 INTRODUCTION**

1.1 The Trust is subject to the Freedom of Information Act 2000 (FOI) as a public authority, and as such, must comply with any requests for information in accordance with the principles laid out in the Act.

**2 WHAT IS A REQUEST UNDER FOI**

2.1 Any request for any information from the Trust is technically a request under the FOI, whether or not the individual making the request mentions the FOI. However, the ICO has stated that routine requests for information (such as a parent requesting a copy of a policy) can be dealt with outside of the provisions of the Act.

2.2 In all non-routine cases, if the request is simple and the information is to be released, then the individual who received the request can release the information, but must ensure that this is done within the timescale set out below. A copy of the request and response should then be sent to the CEO.

2.3 All other requests should be referred in the first instance to the CEO (and logged with the GDPR Officer) who may allocate another individual to deal with the request. This must be done promptly, and in any event within 7 working days of receiving the request.

2.4 When considering a request under FOI, you must bear in mind that release under FOI is treated as release to the general public, and so once it has been released to an individual, anyone can then access it, and you cannot restrict access when releasing by marking the information "confidential" or "restricted".

**3 TIME LIMIT FOR COMPLIANCE**

3.1 The Trust / School must respond as soon as possible, and in any event, within 20 working days of the date of receipt of the request. For an Academy, a "working day" is one in which pupils are in attendance, subject to an absolute maximum of 60 calendar days to respond.

**4 PROCEDURE FOR DEALING WITH A REQUEST**

4.1 When a request is received that cannot be dealt with by simply providing the information, it should be referred in the first instance to the GDPR Officer who may re-allocate to an individual with responsibility for the type of information requested.

4.2 The first stage in responding is to determine whether or not the Trust /School "holds" the information requested. The Trust / school will hold the information if it exists in computer or paper format. Some requests will require the Trust / School to take information from different sources and manipulate it in some way. Where this would take minimal effort, the Trust / School is considered to "hold" that information, but if the required manipulation would take a significant amount of time, the requestor should be contacted to explain that the information is not held in the manner

requested, and offered the opportunity to refine their request. For example, if a request required the Trust / School to add up totals in a spreadsheet and release the total figures, this would be information "held". If the school would have to go through a number of spread sheets and identify individual figures and provide a total, this is likely not to be information "held" by the Trust /school, depending on the time involved in extracting the information.

4.3 The second stage is to decide whether the information can be released, or whether one of the exemptions set out in the Act applies to the information. Common exemptions that might apply include:

4.3.1 Section 40 (1) – the request is for the applicants personal data. This must be dealt with under the subject access regime in the DPA, detailed in paragraph 9 of the DPA policy above;

4.3.2 Section 40 (2) – compliance with the request would involve releasing third party personal data, and this would be in breach of the DPA principles as set out in paragraph 3.1 of the DPA policy above;

4.3.3 Section 41 – information that has been sent to the Trust (but not the Trust's own information) which is confidential;

4.3.4 Section 21 – information that is already publicly available, even if payment of a fee is required to access that information;

4.3.5 Section 22 – information that the Trust intends to publish at a future date;

4.3.6 Section 43 – information that would prejudice the commercial interests of the Trust and/or a third party;

4.3.7 Section 38 – information that could prejudice the physical health, mental health or safety of an individual (this may apply particularly to safeguarding information);

4.3.8 Section 31 – information which may prejudice the effective detection and prevention of crime – such as the location of CCTV cameras;

4.3.9 Section 36 – information which, in the opinion of the Trust, would prejudice the effective conduct of the Trust There is a special form for this on the ICO's website to assist with the obtaining of the chair's opinion.

4.4 The sections mentioned in italics are qualified exemptions. This means that even if the exemption applies to the information, you also have to carry out a public interest weighting exercise, balancing the public interest in the information being released, as against the public interest in withholding the information.

**5 RESPONDING TO A REQUEST**

5.1 When responding to a request where the Trust / School has withheld some or all of the information, the Trust/ school must explain why the information has been withheld, quoting the

appropriate section number and explaining how the information requested fits within that exemption. If the public interest test has been applied, this also needs to be explained.

5.2 The letter should end by explaining to the requestor how they can complain – either by reference to an internal review or by writing to the ICO.

**6 CONTACT**

6.1 Any questions about this policy should be directed in the first instance to CEO**.**

**APPENDIX 1 Data Protection – Employees THIS MUST BE READ BY ALL STAFF MANAGING EMPLOYEE DATA.**

**This appendix provides more detail in regards to:**

1. Staff recruitment
2. Retention of Information
3. Employment records
4. Access to information
5. Security
6. Pension and insurance schemes
7. Equal opportunities monitoring
8. Marketing material
9. Fraud detection
10. Disclosure requests
11. Monitoring at work
12. Performance management records
13. Monitoring the use of electronic communications
14. Information about employees' health
15. Sickness and ill-health records
16. Occupational health
17. Medical examinations

18. Equal Opportunities

19. Monitoring and review

**1 Recruitment**

In advertising for posts the school will include a statement setting out the purposes for which personal information may be used, on the lines of: 'Personal information provided by candidates will be kept in a secure file in the school and will not be released to third parties outside the Trust without the permission of the person concerned, except where there is a legal requirement so to do.' Within the school the Headteacher will determine who may have limited access to information and will inform the person(s) concerned that this is being done.

1.1 DBS Checks DBS checks will be carried out in line with the government guidance in Safeguarding Children and Safer Recruitment in Education 2016 Other vetting which is required by law (e.g. for some jobs under the Protection of Children's Act 1999) will be carried out as necessary, and in line with current regulations and local authority policy. Checks to verify the qualifications and fitness to teach will also be carried out. Other checks may be carried out to verify information provided by candidates for posts.

**1.2 References**

The Trust will comply with Keeping children safe in education; Statutory guidance for schools and colleges 2016.

**1.3 Short listing**

Candidates will be informed that the selection panel will have access to the information provided in the application and any references/testimonials received.

**1.4 Interviews**

Relevant to the recruitment process (and information that may be required in defence against any discrimination claims) will be retained after the interview. Candidates will be told which information will be retained. This will be retained for 6 months.

**All other interview material will be destroyed immediately after the interview.**

**2. Retention of information**

Information obtained for recruitment purposes will not be retained beyond six months. Information obtained on criminal convictions once verified by the DBS will be deleted, but noted on the single central record.

Information provided to confirm a person's identity and the right to work in the UK will be kept on file indefinitely.

Information about unsuccessful candidates will otherwise be deleted at the end of the recruitment process.

**3. Employment records**

This is covered by Part 2 of the Employment Practices Code. The Trust aims to balance the Academy's need to keep records and the employee's right to a private life.

**4. Access to information**

All employees have a right to know the nature and source of information kept about them. Employees will be able to check the personal data held through the Trust's HR System.

Employees may request at any other time to see the information kept about them in order to verify their accuracy. Employees can make representations to the Principal, and if not satisfied, to the Trust HR Manager, about information being retained that is inaccurate or is of a sensitive personal nature.

Employees have the right to apply for access to information required for a discipline, capability or grievance hearing (unless the provision of such information might prejudice criminal investigation). The records kept should only be sufficient to support conclusions drawn. Unsubstantiated allegations should normally be removed. Spent discipline warnings will be removed. The reason for the any termination of contract will be recorded.

Personal data collected in regards to sick absence, disciplinary, capability and grievance matters will be identified as confidential and kept separate in an employee's record.

Headteachers, HR, and line Managers may have access to information contained in a personnel file. Information provided must only as specifically required and the receiver must confirm that the information will be stored securely. Any withdrawal of records must be signed for as an audit trail.

The Trust must respond to any request within 40 calendar days. Although a fee up to £10 may be charged under the legislation, the Trust will not normally charge for access to information, although the Trust reserves the right to charge up to £10 in exceptional circumstances.

**5 Security**

The Principal or person delegated to, will take necessary precautions to ensure that both electronic and manual files are secure.

Personal files will be kept in locked cabinets at all times. HR personnel must make sure that all cabinets are locked with the key removed if leaving the office. Personnel papers must not be left on desks overnight or in an unlocked office. PC screens must be locked down before leaving the desk and passwords must not be shared.

IT personnel who may have access to sensitive data must be made aware of their responsibilities under the Data Protection Act.

Care must be taken not to divulge personal information relating to employees in conversations that can be overheard or to the wrong audience.

**6. Pension and insurance schemes**

Information may be supplied to a third party for pensions and insurance schemes, where such information is necessary. The employees concerned must be informed about how the information will be dealt with.

**7. Equal opportunities monitoring**

Information on both students and staff is periodically required by the government and other bodies authorised to request information. This is sensitive personal data, and the information should be kept to a minimum, and as far as possible in an anonymous form.

Information in regards to employees is required to enable the Trust to meet obligations under the Public service Equality Data and will request that employees provide this data. Trade Unions also request that the Trust provide equal opportunities data in regards to Pay outcomes on an annual basis.

**8. Marketing material**

No information about employees or students will be provided to marketing companies, unless the person(s) concerned have given explicit permission.

**9. Disclosure requests**

Members of staff who receive requests for references or other information about members of the current or previous employees at the school should inform the Headteacher before providing the information to ensure that they are acting within the law and official guidance. Only the Chief Executive Officer, Chief Operating Officer, Principal or Headteacher of the school can provide employment references.

**10. Monitoring at work**

The Trust aims to keep all monitoring at work within the provisions of the Data Protection Act 1998 and the European Convention of Human Rights.

**11. Performance management records**

Performance reviews will be carried out on all employees in accordance with the agreed scheme. The reports on teaching staff performance obtained through the annual formal performance management system can only be retained by the Headteacher (with a copy to the member of staff concerned). Only details about professional development needs/requests may be shared with other staff. Objectives / Targets may be shared with appropriate line managers in regards to supporting the employee through appraisal / capability processes. Information may be shared with the Trust Pay Review committee to determine pay progression.

In this Trust the same arrangements will be in place for performance records of all staff. Core Trust records will be managed by the CFO and the CEO.

**12. Monitoring the use of electronic communications**

The Trust aims not to intrude into the private lives of staff but reserves the right to monitor the use of staff computers, video and audio machines, phones and will keep appropriate records, which can be accessed on request to the Principal of the relevant Academy. Employees have a right to privacy under the human rights legislation and under the Data Protection Act 1998. The Academy is aware of its obligations. However, the Trust intend to use their powers under the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (LBP Regulations) made under the Regulation of Investigatory Powers Act 2000 which permits an employer to vet communications without the consent of the caller, writer or recipient where the intention is: a) to establish the existence of facts applicable to the business; b) to ascertain compliance with regulatory practices; c) for the purposes of quality control; d) to detect viruses or other dangers to the system; or e) to determine whether communications are relevant to the business.

All staff are advised that such monitoring might take place at the school for these purposes including for the misuse of Academy equipment or its use for inappropriate purposes.

**13. Information about employees' health**

This is covered by Part 4 of the Employment Practices Code.

Any data on an employee's state of physical or mental health is sensitive personal data and will only be kept when the employee has been told what information is involved and the use that will be made of it, and the arrangements for its security. The employee must give written consent to its retention.

**14. Sickness and ill-health records**

14.1 As far as possible the school should only retain information that is necessary to establish an employee's fitness for work. The Trust has delegated to the Headteacher the responsibility for determining what is necessary. The Trust recognises the difference between a 'sickness or injury record' and an 'absence record'.

14.2 Sickness or injury records contain sensitive personal information. Sickness records must be kept separately from the general personnel file and access restricted. They will only be kept for specific purposes with the signed written permission of the employee. (E.g. in the case of capability or absence through illhealth proceedings). However, this does not prevent the Academy from recording that sickness notes have been received, and the dates of the absence.

14.3 No information about any of the above records will be made available to other employees unless it is necessary in order that they can fulfil their managerial roles. Employees who manage the schools sick absence telephone / notifying absence line must ensure that the information is treated as sensitive, not discussed in an open forum, not written down on pieces of paper and left on desks and only passed to the relevant person recording and managing the absence process.

14.4 Requests for information from doctors and other medical practitioners will be in accordance with the Access to Medical Reports Act 1998. Employees must give their consent for this information to be requested and for such information to be stored securely by the school.

**15. Occupational Health**

Each school has arrangements in place for access to occupational health information and consultation. All employees will be informed about how health information will be used under the scheme and who will have access to it.

**16. Medical examinations**

16.1 Recruitment Job applicants must only be medically examined to ensure they are: fit for the role; to meet legal requirements; determine the terms on which they are eligible to join a pension or insurance scheme.

The school will make clear during the recruitment process that tests might be necessary.

**16.2 Current employees**

Medical information will only be obtained through examination or testing if: the tests are part of a voluntary occupational health and safety programme; necessary to prevent a significant health risk;

needed to determine an employee's continuing fitness for the role; needed to determine whether an employee is fit to return to work after a period of absence; needed to determine an employee's entitlement to health-related benefits; needed to prevent discrimination on the grounds of disability, or to assess the need to make reasonable adjustments, or to comply with other legal obligations.

**17. Equal Opportunities**

In implementing and amending this policy the Trust will take into account the Trust's equal opportunities policies.